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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,160

11/03/2003

Steven D. Kaminsky

FRESH-1

3812

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09/05/2008

EXAMINER

PASS, NATALIE

ART UNIT

PAPER NUMBER

3626

MAIL DATE

DELIVERY MODE

09/05/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/700,160	<b>Applicant(s)</b> KAMINSKY, STEVEN D.	
	<b>Examiner</b> Natalie A. Pass	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/3/03 and 8/12/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the application filed 3 November 2003. Claims 1-2 are pending.

### ***Statutory Subject Matter***

2. Examiner has determined the claimed method to be a statutory subject matter eligible process because the process is tied to another statutory class (such as a particular apparatus), as embodied in the mailing package that is prepared in claims 1 and 2.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanborn, et al., U.S. Patent Application Publication Number 2002/0022996.

(A) As per claim 1, Sanborn teaches a method for automatically providing a dental patient with a fresh toothbrush, the method comprising:

collecting identifier information for the dental patient, the identifier information including dental office, previous hygiene appointment date and future hygiene appointment date (Sanborn; paragraphs [0011], [0018], [0040], [0074]); although Sanborn does not explicitly disclose identifying a previous appointment date, it would have been recognized by a person of ordinary skill in the art at the time of the invention that dental offices are required to maintain identifying records of previous appointments, and that a dentist sending appointment reminders would identify a previous appointment date in order to ascertain when to mail the reminder;

preparing a mailing package containing the “dental care product” (reads on “fresh toothbrush”) with a reminder notice of the future hygiene appointment at the dental office (Sanborn; Abstract, paragraphs [0011], [0013], [0033]); and

sending the mailing package to the patient on a given date based on a time interval from the previous hygiene appointment date (Sanborn; paragraphs [0011], [0033], [0035], [0070]); although Sanborn does not explicitly disclose identifying a previous appointment date, it would have been recognized by persons of ordinary skill in the art at the time of the invention that a dentist sending appointment reminders would identify a time interval from a previous appointment date in order to ascertain when to mail the reminder.

(B) Claim 2 differs from method claim 1, in that it is a system rather than a method for automatically providing a dental patient with a fresh toothbrush.

System claims 2 repeats the subject matter of claim 1, respectively, as a set of “means-plus-function” elements rather than a series of steps. As the underlying processes of claim 1

have been shown to be fully disclosed by the teachings of Sanborn in the above rejection of claim 1, it is readily apparent that the system disclosed by Sanborn includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claim 1, and incorporated herein.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied references Karpf et al., U.S. Patent Application 7287031, Hopkins, U.S. Patent Application Publication Number 20020032580, Byerly et al., U.S. Patent Number 6067524, and Strub, U.S. Patent Application 5704087, teach the environment of sending appointment reminders.

6. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington D.C. 20231**

or faxed to: **(571) 273-8300.**

For informal or draft communications, please label  
"PROPOSED" or "DRAFT" on the front page of the  
communication and do NOT sign the communication.

After Final communications should be labeled "Box AF."

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/N. A. P./  
Examiner, Art Unit 3626  
August 29, 2008

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 3626